

**2024 No. 272**

**NATIONAL HEALTH SERVICE**

**The National Health Service Superannuation and Pension  
Schemes (Miscellaneous Amendment) (Scotland) Regulations  
2024**

<i>Made</i>	- - - -	<i>1st October 2024</i>
<i>Laid before the Scottish Parliament</i>		<i>3rd October 2024</i>
<i>Coming into force</i>	- -	<i>29th November 2024</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 10 and 12 and schedule 3 of the Superannuation Act 1972(a), sections 1(1) and (2)(e) and 3(1), (2) and (3) of, and paragraph 5(b) of schedule 2, and schedule 3 of, the Public Service Pensions Act 2013(b) and all other powers enabling them to do so.

In accordance with section 10(4) of the Superannuation Act 1972, the Scottish Ministers have consulted with such representatives of persons likely to be affected by these Regulations as appear to them to be appropriate.

In accordance with section 22(2)(a) of the Public Service Pensions Act 2013, the Scottish Ministers consulted the representatives of such persons as appeared to them likely to be affected by these Regulations. In accordance with section 22(2)(b) of that Act, the Scottish Ministers laid before the Scottish Parliament a report concerning the changes to members' contribution rates under the NHS Pension Scheme (Scotland) 2015(c) made by these Regulations.

In accordance with section 3(5) of the Public Service Pensions Act 2013, these Regulations are made with the consent of the Treasury.

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- (a) 1972 c. 11. Section 10 was amended by Part II of schedule 7 of the National Health Service (Scotland) Act 1972 (c. 58), schedule 5 of the National Health Service Reorganisation Act 1973 (c. 32), sections 4(2) and 8(5) and (6) of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) ("the 1990 Act"), paragraph 7 of schedule 8 of the Pensions Schemes Act 1993 (c. 48), paragraph 10 of schedule 8 of the Public Service Pensions Act 2013 (c. 25) and S.I. 2001/3649. Section 12 was amended by section 10 of the 1990 Act. The functions of the Secretary of State, in or as regards Scotland, were transferred to the Scottish Ministers by virtue of article 2 and schedule 1 of S.I. 1999/1750.
- (b) 2013 c. 25.
- (c) The pension scheme established by S.S.I. 2015/94 is to be known in terms of regulation 2(2) of that instrument as the NHS Pension Scheme (Scotland) 2015.

## PART 1

### Introductory

#### **Citation, commencement and effect**

1.—(1) These Regulations may be cited as the National Health Service Superannuation and Pension Schemes (Miscellaneous Amendment) (Scotland) Regulations 2024 and come into force on 29 November 2024.

(2) Regulation 57 has effect from 1 April 2015, but only for the purposes of sub-paragraph (3)(c).

(3) Regulations 3 to 5 have effect from 1 November 2022.

(4) Regulations 21, 24 to 26, 31, 45, 46, 53, 55, 72 and 73 have effect from 1 April 2023.

(5) Regulations 8, 9, 11 to 20, 22, 23, 27, 34, 41, 48, 56, 59 to 67 and 69 have effect from 1 October 2023.

(6) Regulations 7, 10, 29, 30, 32, 33, 35 to 39, 42, 43, 44, 47, 49 to 52, 57 (for all other purposes), 68 and 74 have effect from 1 April 2024.

## PART 2

### Modifications of restrictions on return to work

#### **Duration of modifications in this Part**

2. The modification in regulation 3 applies until the end of 31 March 2025 and the modifications in regulations 4 and 5 apply until the end of 31 March 2023.

#### **Modification of the National Health Service Superannuation Scheme (Scotland) Regulations 2011**

3. The National Health Service Superannuation Scheme (Scotland) Regulations 2011(a) have effect as if in the opening words of regulation S2(4) (reduction of pension on return to NHS employment) the words “or (c)” were omitted.

#### **Modification of the National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013**

4. The National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013(b) have effect as if the following regulations were omitted—

- (a) regulation 2.D.6(2)(a) (abatement of pension following increase in pensionable pay), and
- (b) regulation 3.D.6(2)(a) (abatement of pension following increase in engagement in employment).

#### **Modification of the National Health Service Pension Scheme (Scotland) Regulations 2015**

5. The National Health Service Pension Scheme (Scotland) Regulations 2015(c) have effect as if regulation 85(3) (abatement of pension following continuation of employment) were omitted.

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(a) S.S.I. 2011/117, relevantly amended by S.S.I. 2022/117.

(b) S.S.I. 2013/174, relevantly amended by S.S.I. 2022/117.

(c) S.S.I. 2015/94, relevantly amended by S.S.I. 2022/117.

## PART 3

### Amendment of the National Health Service Superannuation Scheme (Scotland) Regulations 2011

6. The National Health Service Superannuation Scheme (Scotland) Regulations 2011 are amended in accordance with this Part.

#### Amendment of regulation A2

7. In regulation A2 (interpretation), at the appropriate places insert—

““approved salary sacrifice arrangement” means an arrangement specified by the scheme manager under which the member gives up the right to receive part of their salary in return for their employer agreeing to provide the member with benefits in kind as specified by the scheme manager;

“lump sum and death benefit allowance” in relation to a person, has the meaning given in section 637R of the Income Tax (Earnings and Pensions) Act 2003(a);

“salary sacrifice arrangement” means an arrangement under which the member gives up the right to receive an amount of pensionable pay in return for the provision of a benefit in kind;”.

#### Amendment of regulation C1

8.—(1) Regulation C1 (meaning of “pensionable pay”) is amended as follows.

(2) In paragraph (1)(a), after “salary, wages, fees”, insert “, any amount equal to any part of salary given up under an approved salary sacrifice arrangement,”.

(3) In paragraph (12), for “paragraph (13)”, substitute “paragraphs (13) and (13A)”.

(4) After paragraph (13), insert—

“(13A) If a member becomes entitled to a pension under regulation E11A (partial retirement pension), “final year’s pensionable pay” means pensionable pay in respect of the year immediately preceding the day on which the reduction in the member’s pensionable pay takes effect by virtue of which the member becomes entitled to the partial retirement pension.”.

#### Amendment of regulation C2

9.—(1) Regulation C2 (meaning of “pensionable service”) is amended as follows.

(2) In paragraph (2), for sub-paragraph (b) substitute—

“(b) in the case of a member who has become entitled to a pension (including a preserved pension) any period taken into account—

(i) in determining the member’s entitlement to the pension in payment or, as the case may be, the preserved pension, or

(ii) in calculating the amount of that pension,

but, in the case of a member entitled to a pension under regulation E11A (partial retirement pension) this sub-paragraph is subject to paragraph (8);”.

(3) After paragraph (7), insert—

“(8) In the case of a member entitled to a pension under regulation E11A (partial retirement pension), paragraph (2)(b) only applies to so much of the member’s pensionable service as is mentioned in regulation E11A(11)(b) (the pension to which the member is

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(a) 2003 c. 1. Section 637R was inserted by the Finance Act 2024 (c. 3).

immediately entitled as a result of exercising the option and the specified percentage of the pensionable service that the pension represents).”.

### **Amendment of regulation D3**

**10.**—(1) Regulation D3 (further contributions by employing authorities in respect of excessive pay increases) is amended as follows.

(2) In paragraphs (3)(b)(i), (4)(b)(i) and (5)(b), for “4.5%” substitute “7%”.

(3) Omit paragraphs (7) to (11).

(4) After paragraph (12) insert—

“(12A) Paragraphs (12B) to (12G) apply in circumstances where a payer has been notified of a liability to pay an excess employer contribution on or after 1 April 2020.

(12B) Where a payer—

- (a) has paid all of the excess employee contribution, and
- (b) applies for a determination under this paragraph which is received by the Scottish Ministers within a period of six months from 21 November 2024,

the Scottish Ministers must determine the excess employer contribution in this regulation as in force on 1 April 2024.

(12C) Where the amount of any excess employer contribution payable following a determination under paragraph (12B) is less than the amount of any excess employer contribution together with any interest already paid by the payer, the Scottish Ministers must pay to the payer a sum equal to the difference between those amounts.

(12D) Where a payer—

- (a) has failed to pay all, or any part, of the excess employer contribution, and
- (b) applies for a determination under this paragraph which is received by the Scottish Ministers within a period of six months from 21 November 2024,

the Scottish Ministers must determine the excess employer contribution in accordance with this regulation as in force on 1 April 2024.

(12E) Subject to paragraph (12F), the amount of any excess employer contribution payable following a determination under paragraph (12D) must be paid to the Scottish Ministers within 1 month of the Scottish Ministers notifying the payer of its liability for that amount.

(12F) Where the amount of any excess employer contribution payable following a determination under paragraph (12D) is less than the amount of any excess employer contribution together with any interest already paid by the payer, the Scottish Ministers must pay to the payer a sum equal to the difference between those amounts.

(12G) Where the Scottish Ministers make a determination under paragraph (12B) or (12D), any previous determination of an excess employer contribution payable in respect of the same member has no effect.”.

(5) After paragraph (19B)(a) insert—

“(19C) Where—

- (a) the Scottish Ministers have approved terms and conditions relating to NHS employment, and
  - (b) a member’s pensionable pay has increased pursuant to those terms and conditions,
- the increase in the member’s pensionable pay is to be disregarded for the purposes of this regulation.

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(a) Paragraph (19B) was inserted by S.S.I. 2020/30.

(19D) An increase in a member’s pensionable pay by reason of an amount in respect of a national award recommended by the Scottish Advisory Committee on Distinction Awards is to be disregarded for the purposes of this regulation.

(19E) An increase in a member’s pensionable pay due to promotion on the basis of fair and open competition is to be disregarded for the purposes of this regulation.

(19F) An increase in the pensionable pay of a non-GP provider due to an increase in partnership profits within the three year period immediately prior to the date on which the non-GP provider ceased to be in pensionable employment is to be disregarded for the purposes of this regulation if the non-GP provider’s percentage share in the partnership profits—

- (a) has not increased during the same three year period,
- (b) has increased during the same three year period, but only as a result of another partner leaving the practice, or
- (c) has increased during the same three year period, but only as a result of another partner reducing their sessional commitment.

(19G) An increase in a member’s pensionable pay solely due to the ending of a salary sacrifice arrangement is to be disregarded for the purposes of this regulation.”.

(6) In paragraph (21), omit sub-paragraph (h).

#### **New regulations E11A, E11B and E11C**

**11.** After regulation E11 (early retirement pension (with actuarial reduction)), insert—

#### **“Partial retirement pension**

**E11A.**—(1) A member who is in pensionable employment or who is a non-pensionable member of the scheme may exercise an option under this regulation if—

- (a) the member—
  - (i) has reached normal minimum pension age or, where relevant, protected pension age,
  - (ii) has at least two years’ qualifying service, and
  - (iii) continues to be in pensionable employment for the purposes of the 2015 Scheme or, where the member is in more than one pensionable employment for the purposes of the 2015 Scheme, the member continues to be in at least one of those pensionable employments,
- (b) the terms on which the member holds the pensionable employment or employments referred to in sub-paragraph (a)(iii) change, and
- (c) as a result of the change referred to in sub-paragraph (b), the annual rate of the member’s pensionable pay is reduced (disregarding any reduction in pensionable pay resulting from the member entering into a salary sacrifice arrangement) to 90% or less of the amount of the member’s pensionable pay during the period of 12 months ending with the option day.

(2) If the member was not in pensionable employment for the purposes of the 2015 Scheme during the whole of the period of 12 months referred to in paragraph (1)(c), that paragraph applies as if the member’s pensionable pay during that period were—

$$PP \times \left(\frac{365}{N}\right)$$

where—

PP is the member’s pensionable pay for the part of that period during which the member was in pensionable employment for the purposes of the 2015 Scheme, and

N is the number of days in that period on which the member was in pensionable employment for the purposes of the 2015 Scheme.

(3) The option may only be exercised by notice in writing in such form as the Scottish Ministers require and must be accompanied by a statement in writing by the member's employing authority, or employing authorities, that the conditions in paragraph (1)(b) and (c) are met.

(4) The option must specify—

- (a) the percentage of the member's pension (excluding any additional pension) in respect of which the member claims immediate payment ("the specified percentage"),
- (b) whether the pensionable service used to calculate the pension referred to at subparagraph (a) is to include additional service (if any) that the member has purchased under regulation Q1 (right to buy additional service), and
- (c) whether the member claims immediate payment of additional pension (if any).

(5) A member who duly exercises the option under this regulation is entitled—

- (a) in the case of a member who has reached the age of 60, to immediate payment of the specified percentage of the pension to which the member would be entitled under regulation E1 (normal retirement pension) if the member had retired from pensionable employment on the option day (including any additional service specified under paragraph (4)(b) but disregarding any additional pension),
- (b) in the case of a member who has not reached the age of 60, to immediate payment of the specified percentage of the pension to which the member would be entitled under regulation E11 (early retirement pension with actuarial reduction) if the member had retired from pensionable employment on the option day (including any additional service specified under paragraph (4)(b) but disregarding any additional pension),
- (c) in the case of a special class officer who meets the retirement condition in paragraph (13) of this regulation and has reached the age of 55, to immediate payment of the specified percentage of the pension to which the member would be entitled under regulation E1 (normal retirement pension) if the member had retired from pensionable employment on the option day (including any additional service specified under paragraph (4)(b) but disregarding any additional pension), and
- (d) where the option specifies that the member claims immediate payment of additional pension—
  - (i) if the option day falls on or after the member's chosen birthday, to the immediate payment of the additional pension, and
  - (ii) if the option day falls before the member's chosen birthday, to the immediate payment of the additional pension reduced in accordance with paragraphs (5) and (6) of regulation Q15 (effect of death or early payment of pension after option exercised under regulation Q8, Q10 or Q11).

(6) If—

- (a) the option specifies that the pensionable service used to calculate the pension referred to at paragraph (5)(a), (b) or (c) is to include additional service that the member has purchased under regulation Q1,
- (b) the member's method of payment for the additional service is regular additional contributions, and
- (c) the option day falls before the member's chosen date,

then the proportion of additional service to be included in the pensionable service used to calculate that pension will be reduced in accordance with paragraph (6) of regulation Q7 (part payment for additional service or unreduced retirement lump sum).

(7) Subject to paragraph (8), the specified percentage must be such that the pension to which the member becomes entitled as a result of the option (before the exercise of the option under regulation E17 (general option to exchange part of pension for lump sum) and disregarding any additional benefits)—

- (a) is not less than the amount of the pension payable by reference to 20% of the member's pensionable service at the end of the option day (disregarding any additional benefits), and
- (b) is not less than 0.05% of the member's lump sum and death benefit allowance on the option day.

(8) Where a member has reached protected pension age but not yet normal minimum pension age, the specified percentage must be 100% of the member's pensionable service at the end of the option day (disregarding any additional benefits).

(9) Where a pension is payable under paragraph (5)(b), the lump sum payable under regulation E13 (lump sum on retirement) will be reduced in accordance with paragraph (7)(b) of regulation E14.

(10) The option under this regulation may only be exercised on no more than two occasions and the Scottish Ministers shall take advice from the Scheme Actuary regarding—

- (a) any benefits to be paid after the exercise of the first option (but before the exercise of the second option),
- (b) any benefits to be paid after the exercise of the second option, and
- (c) the final payment.

(11) For the purposes of these Regulations, a member who has exercised the option under this regulation—

- (a) is a member to whom a pension has become payable in respect of the pension to which the member is immediately entitled as a result of exercising the option and the specified percentage of the pensionable service that that pension represents,
- (b) if the member continues as an active member of the 2015 Scheme after the option day, is treated as a member who is in pensionable employment in respect of so much of the member's pensionable service in this Section of the scheme that does not fall within sub-paragraph (a) ("the unspecified service"), and
- (c) if the member does not continue as an active member of the 2015 Scheme after the option day, is a member with a preserved pension in respect of the unspecified service.

(12) For the purposes of this regulation, in the case of a non-pensionable member of the scheme, "pensionable pay" means the member's pensionable earnings for the purposes of the 2015 Scheme.

(13) In this regulation—

"additional benefits" means any additional service specified under paragraph (4)(b) and any additional pension specified under paragraph (4)(c),

"chosen birthday" has the meaning given in paragraph (9) of regulation Q8 (option to pay additional periodical contributions to purchase additional pension),

"chosen date" has the meaning given in paragraph (3) of regulation Q5 (paying by regular additional contributions),

"non-pensionable member of the scheme" means a member of—

- (a) the scheme who, on 31 March 2022, is no longer required to pay contributions under regulation D1(26) or (27) (contributions by members: age and pensionable service limits) of these Regulations, and
- (b) the 2015 scheme in respect of service on or after 1 October 2023,

“the option day” means the day before the reduction in pensionable pay by virtue of which the option is exercisable takes effect,

“the retirement condition” is met if the Secretary of State determines that regulation R2(3)(a) or regulation R3(5) (whichever applies) would have applied to the special class officer if the officer’s pensionable employment had terminated on the option day.

### **Increase in pensionable pay following exercise of option under regulation E11A**

**E11B.**—(1) This regulation applies if, in a case where a member has exercised the option under regulation E11A—

- (a) during the period of 12 months beginning with the day after the option day the terms on which the member holds the employment or employments referred to in regulation E11A(1)(a)(iii) change again, and
- (b) as a result the member’s pensionable pay in that employment or those employments is increased (disregarding any increase in pensionable pay resulting from the member leaving a salary sacrifice arrangement) to more than 90% of the member’s pensionable pay during the period of 12 months ending with the option day, or
- (c) following an increase referred to in sub-paragraph (b), the member’s pensionable pay in that employment or those employments is reduced (disregarding any reduction in pensionable pay resulting from the member entering into a salary sacrifice arrangement) to less than 90% of the member’s pensionable pay during the period of 12 months ending with the option day.

(2) In the circumstances referred to in—

- (a) paragraph (1)(b), the amount of the member’s pension mentioned in sub-paragraphs (a), (b) and (c) of regulation E11A(5) (excluding any additional benefits) shall be abated to zero from the first pension day immediately following the day on which the level of the member’s pensionable pay increased,
- (b) paragraph (1)(c), subject to any adjustments in accordance with sub-paragraph (c), the member shall again be entitled to receive payment of the full amount of the pension mentioned in sub-paragraphs (a), (b) and (c) of regulation E11A(5) as from the first pension day immediately following the day on which the level of the member’s pensionable pay reduced,
- (c) where sub-paragraph (b) applies, before restoring the payment of a pension the Scottish Ministers shall have regard to the advice of the Scheme Actuary as to whether the amount of the pension should be adjusted in view of the length of time during which it was abated to zero in accordance with sub-paragraph (a).

(3) If the member was not in pensionable employment during the whole of the period of 12 months mentioned in paragraph (1)(b), that paragraph applies as if the member’s pensionable pay during that period were—

$$PP \times \left(\frac{365}{N}\right)$$

where—

PP is the member’s pensionable pay for the part of that period during which the member was in pensionable employment, and

N is the number of days in that period on which the member was in pensionable employment.

(4) If, in the opinion of the Scottish Ministers, had the terms and conditions of the member’s employment remained the same after the option day (apart from pensionable pay), the annual rate of pensionable pay for the employment as at the time of the change mentioned in paragraph (1)(a) would have exceeded the annual rate referred to in paragraph (1)(b)—



- (a) paragraph (2)(a) does not apply, and
- (b) this regulation applies as if paragraph (1)(b) referred to that annual rate instead of the actual annual rate.

(5) For the purposes of this regulation, if during the period of 12 months beginning with the day after the option day the member enters a further pensionable employment or employments—

- (a) that event is treated as if the terms on which the member holds the employment in respect of which the option was exercised (“the option employment”) had changed again, and
- (b) the member’s pensionable pay in the further employment is treated as an increase in the member’s pay in the option employment.

(6) In this regulation “the option day”, “additional benefits”, and “pensionable pay” have the same meaning as in regulation E11A(12) and (13).

**Application of regulations E11A and E11B with modifications where concurrent part-time employments held**

**E11C.**—(1) This regulation provides for the application of regulations E11A and E11B with modifications if a member is in pensionable employment in the 2015 Scheme in two or more part-time employments held concurrently on the option day.

(2) Those regulations apply in relation to each of the employments as if it were the only employment held by the member on that day, but subject to the following modifications set out in paragraph (3) to (8).

(3) In regulation E11A(1), for sub-paragraph (c) substitute—

“(c) as a result of that change, the sum of the annual rate of the member’s pensionable pay in that employment and every other employment held by the member on the option day is reduced (disregarding any reduction in pensionable pay resulting from the member entering into a salary sacrifice arrangement) to 90% or less of the sum of—

- (i) the member’s pensionable pay in the employment during the period of 12 months ending with the option day, and
- (ii) the member’s pensionable pay during that period in every other employment held by the member on the option day.”.

(4) In regulation E11A(2)—

- (a) after the words “2015 Scheme”, insert the words “in the employment or any other employment referred to in paragraph (1)(a)(iii)”, and
- (b) after the words “that period”, insert the words “in that employment”.

(5) In regulation E11B(1), for sub-paragraph (b) substitute—

“(b) as a result the annual rate of the member’s pensionable pay in that employment is increased (disregarding any increase in pensionable pay resulting from the member leaving a salary sacrifice arrangement) to more than 90% of the sum of—

- (i) the member’s pensionable pay in the employment during the period of 12 months ending with the option day, and
- (ii) the member’s pensionable pay during that period in every other employment held by the member on the option day.”.

(6) In regulation E11B(3)—

- (a) after “pensionable employment”, insert the words “in the employment or any other employment referred to in regulation E11A(1)(a)(iii)”, and
- (b) after the words “that period”, insert the words “in that employment”.

(7) In regulation E11B(4), after “referred to in paragraph (1)(b)”, insert “for that employment”.

(8) Where—

- (a) a member’s pension is abated in accordance with regulation E11B(2)(a), in the circumstances described in regulation E11B(1)(b), and
- (b) the member’s pensionable pay does not reduce in the manner described in regulation E11B(1)(c),

the pension will (in any event) be payable by the Scottish Ministers when the member retires, or partially retires again, from pensionable employment or attains the age of 75 and in doing so the Scottish Ministers shall—

- (i) have regard to any pensions already paid, including any lump sum paid as a result of the member exercising an option under regulation E17 (general option to exchange part of pension for lump sum), and
- (ii) take advice of the Scheme Actuary.

(9) In this regulation “the option day” has the same meaning as in regulation E11A(13).”.

### **Amendment of regulation E12**

**12.** In regulation E12 (preserved pension), in paragraph (16)(a), for the definition of “NHS employment”, substitute—

““NHS employment” does not include employment with an employing authority in respect of which—

- (a) a member is eligible to join the 2008 Section, or
- (b) a member, other than a member who is no longer required to pay contributions pursuant to regulation D1(26) or (27) (contributions by members), is eligible to join the 2015 Scheme and that member’s service in this Section does not qualify as, or has ceased to be, pensionable service to which paragraphs 1(2)(i) and (ii) or paragraphs 2(2)(i) and (2)(ii) of Schedule 7 (final salary link) to the 2013 Act applies;”.

### **Amendment of regulation E13**

**13.** In Regulation E13(1) (lump sum on retirement), for “E11”, substitute “E11A”.

### **Amendment of regulation E14**

**14.** In Regulation E14(7) (deductions from lump sum)—

- (a) for “E11 applies (early retirement pension (with actuarial reduction))”, substitute “E11 (early retirement pension (with actuarial reduction)) or regulation E11A (partial retirement pension) applies”, and
- (b) in sub-paragraph (a), after “regulation E11(2)”, insert “or regulation E11A(5)(b),”.

### **Amendment of regulation F2**

**15.—(1)** Regulation F2 (lump sum when member dies after pension becomes payable) is amended as follows.

- (2) At the end of the regulation’s heading, add “(other than a pension under regulation E11A)”.
- (3) For paragraph (1) substitute—

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(a) Paragraph (16) was relevantly amended by S.S.I. 2015/95.

“(1) Subject to paragraph (7), and except where a lump sum payment is made under regulation E2(8), if a member dies after the member’s pension under any of regulations E1 to E11 becomes payable, a lump sum on death shall be payable in accordance with regulation F5.”.

### **New regulation F2A**

**16.** After regulation F2 (lump sum when member dies after pension becomes payable (other than a pension under regulation E11A) insert—

#### **“Member dies after a pension under regulation E11A becomes payable**

**F2A.**—(1) If a member dies after one or more pensions under regulation E11A becomes payable to the member, a lump sum on death shall be payable in accordance with regulation F5.

(2) The lump sum on death will be equal to 5 times the yearly rate of each of the member’s pensions (less the amount of pension already paid) provided that the maximum payment under this paragraph shall not exceed the aggregate lump sum cap.

(3) The aggregate lump sum cap is equal to twice the appropriate fraction of the member’s final year’s pensionable pay by reference to which the pension to which the member became entitled on last exercising the option under regulation E11A was calculated, less an amount equal to the aggregate of—

- (a) the member’s retirement lump sum under regulation E13, and
- (b) any lump sum paid to the member under regulation E17.

(4) In this regulation—

“the appropriate fraction” means—

$$\frac{DPS}{TDPS}$$

where

DPS is, where the member continues in pensionable service as an active member of the 2015 Scheme on the option day (or the last such option day if the option has been exercised more than once), the total number of days of pensionable service in that Scheme and this Section of the scheme which do not relate to the specified percentage of pension on the option day,

TDPS is the aggregate of DPS and the total number of days of pensionable service (at the option day or the last such option day if the option has been exercised more than once) which relate to the specified percentage of pension payable,

“the option day” has the meaning given in paragraph (13) of regulation E11A, and

“specified percentage” has the meaning given in paragraph (4)(a) of regulation E11A.”.

### **Amendment of regulation G3**

**17.** In regulation G3 (widow’s pension when member dies after pension becomes payable), in paragraph (4) after “under regulation E11” insert “or regulation E11A”.

### **Amendment of regulation H4**

**18.** In regulation H4 (child allowance when member dies after pension becomes payable), in paragraph (9) after “(early retirement pension (with actuarial reduction))” insert “or regulation E11A (partial retirement pension)”.

### **Amendment of regulation H5**

**19.** In regulation H5 (child allowance when member dies with preserved pension), for paragraph (5) substitute—

“(5) Subject to paragraph (6), if the member dies 12 months or more after leaving pensionable employment, the allowance will be calculated as described in whichever of paragraphs (7) or (9) apply, as a proportion of the amount of the member’s preserved pension if paragraph (11)(c) of regulation E11A applies to the member, otherwise the greater of—

- (a) the member’s preserved pension, and
- (b) the amount that the preserved pension would have been if it had been based on 10 years’ pensionable service.”.

### **Amendment of regulation J1**

**20.** In regulation J1 (allocation of pension by member for benefit of dependant), in paragraph (4)(a), after the words “put into payment” insert the words “other than a pension payable under regulation E11A (partial retirement pension)”.

### **Amendment of regulation K2**

**21.** In regulation K2 (guaranteed minimum pensions), for paragraph (2)(b) substitute—

“(b) payment may be reduced under regulation S2 (reduction of pension on return to NHS employment) if the member returns to NHS employment, in which case the member’s guaranteed minimum pension will be increased as described in regulation K3 (late retirement), and”.

### **Amendment of regulation Q1**

**22.** In regulation Q1 (right to buy additional service), in paragraph (6), after sub-paragraph (b), insert—

“(c) for the purpose of calculating any pension the member becomes entitled to under paragraph (5)(a), (b) or (c) of regulation E11A (partial retirement pension), unless the member specifies that any additional service is to be included in the calculation of that pension in accordance with paragraph (4)(b) of that regulation.”.

### **Amendment of regulation Q15**

**23.** In regulation Q15 (effect of death or early payment of pension after option exercised under regulation Q8, Q10 or Q11), in paragraph (5), after sub-paragraph (c), insert “; or” and then add—

“(d) becomes entitled to a pension under regulation E11A before the member’s chosen birthday.”.

### **Amendment of regulation R4**

**24.** In regulation R4 (members doing more than one job), omit paragraph (6).

### **Omission of regulation S1**

**25.** Omit regulation S1 (suspension of pension on return to NHS employment).

### **Amendment of regulation S2**

**26.** In Regulation S2 (reduction of pension on return to NHS employment)—

- (a) in paragraph (2)—

- (i) in sub-paragraph (b)(iii)—
  - (aa) for “paragraph (c) applies”, substitute “regulation R2(3)(b) (nurses, physiotherapists, midwives and health visitors) or regulation R3(10) (mental health officers) applies to the member”,
  - (bb) omit “; or”,
- (ii) omit sub-paragraph (c),
- (b) in paragraph (4), omit “or (c)”,
- (c) in paragraph (16), for the definition of “NHS employment” substitute—
  - ““NHS employment” includes—
    - (a) employment in respect of which regulations made under section 10 of the Superannuation Act 1972, and having effect in England and Wales, apply; employment to which regulations made under Article 12 of the Superannuation (Northern Ireland) Order 1972 apply and employment commencing on or before 31 March 2012 to which a scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald) applies, and
    - (b) employment with an employer with whom an agreement has been made under section 89 of the 1978 Act or in respect of whom a direction has been made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967.”.

### **Amendment of Schedule 1**

#### **27. In Schedule 1 (medical and dental practitioners)—**

- (a) in paragraph 5(1) (meaning of “pensionable earnings”), for “or fees” substitute “, fees or any amount equal to any part of salary given up under an approved salary sacrifice arrangement”,
- (b) in paragraph 8(1) (meaning of “pensionable earnings” in relation to other practitioners), after “salary, wages, fees” insert “, any amount equal to any part of salary given up under an approved salary sacrifice arrangement”,
- (c) after paragraph 16, insert—

#### **“Partial retirement pension**

**16A.**—(1) In the case of members who are or have been practitioners, regulations E11A (partial retirement pension) and E11B (increase in pensionable pay following exercise of option under regulation E11A) are modified as follows.

#### (2) Regulation E11A is modified so that—

- (a) the reference to holding pensionable employment in paragraph (1)(b) is treated as a reference to engaging in pensionable employment,
- (b) the condition in paragraph (1)(c), for the reduction of the member’s pensionable pay to 90% or less of the member’s pensionable pay during the period of 12 months ending with the option day, is treated as a condition for the reduction of the member’s engagement in such employment to 90% or less of its pre-change level,
- (c) paragraph (2) is omitted,
- (d) the requirement in paragraph (3), for a statement in writing by the member’s employing authority that the conditions in paragraph 1(b) and (c) are met, is treated as a requirement for appropriate supporting evidence and a statement in writing approved by the Board that the conditions in paragraph 1(b) and (c) are met,
- (e) the requirement in paragraph (7)(a), for the pension to which the member becomes entitled to not be less than the amount of the pension payable by reference to 20% of the member’s pensionable service at the end of the option day (disregarding any additional benefits), is treated as a requirement for the pension to which the

member becomes entitled to not be less than 20% of the pension that would have been payable if the member had ceased to be employed in all of his employments at the end of the option day (disregarding any additional benefits),

(f) for the purposes of regulation E11A—

“pre-change level” means the level of the member’s engagement in the employment referred to in paragraph (1)(a)(iii) during the period of 12 months ending with the option day, and

“pension” means the pension that a member would have been entitled to on the option day if the member had ceased to be employed in all of his employments and, in the case of practitioner services, the pensionable earnings taken into account when working out the pension will be drawn from the latest certificate referred to in paragraph 31 (accounts and actuarial reports), or the latest scheme year’s final pensionable earnings referred to in paragraph 14 of this Schedule, and agreed with each relevant host Board.

(3) Regulation E11B is modified so that—

(a) the condition in paragraph (1)(b), for the member’s pensionable pay to increase to more than 90% of the member’s pensionable pay during the period of 12 months ending with the option day, is treated as a condition for the level of the member’s engagement in the employment or employments referred to in regulation E11A(1)(a)(iii) to increase to more than 90% of the member’s pre-change level,

(b) for the purposes of the modifications to regulations E11A and E11B made by this regulation—

(i) “pre-change level” has the meaning given in paragraph (2)(f),

(ii) a member’s “employment” means practitioner service together with any concurrent NHS employment.”.

## PART 4

### Amendment of the National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013

#### General

**28.** The National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013(a) are amended in accordance with this Part.

#### Amendment of regulation 2.A.1

**29.** In regulation 2.A.1 (interpretation of part 2: general), at the appropriate places, insert—

““approved salary sacrifice arrangement” means an arrangement specified by the scheme manager under which the member gives up the right to receive part of their salary in return for their employer agreeing to provide the member with benefits in kind as specified by the scheme manager;

“lump sum and death benefit allowance” in relation to a person, has the meaning given in section 637R of the Income Tax (Earnings and Pensions) Act 2003(b);

“salary sacrifice arrangement” means an arrangement under which the member gives up the right to receive an amount of pensionable pay in return for the provision of a benefit in kind;”.

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(a) S.S.I. 2013/174.

(b) 2003 c. 1. Section 637R was inserted by the Finance Act 2024 (c. 3).

### **Amendment of regulation 2.A.9**

**30.** In regulation 2.A.9(1) (meaning of “pensionable pay”), after “salary, wages, fees” insert “, any amount equal to any part of salary given up under an approved salary sacrifice arrangement.”.

### **Amendment of regulation 2.D.5**

**31.—**(1) Regulation 2.D.5 (partial retirement: members aged at least 55) is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (a), for “or a non-contributing member”, substitute “of the 2015 Scheme”,

(b) in sub-paragraph (d), after “is reduced”, insert “(disregarding any reduction in pensionable pay resulting from the member entering into a salary sacrifice arrangement)”.

(3) In paragraph (2), after each occurrence of “active member”, insert “of the 2015 Scheme”.

(4) In paragraph (6)—

(a) in sub-paragraph (a)(ii), for “lifetime allowance”, substitute “lump sum and death benefit allowance”,

(b) omit sub-paragraphs (b) and (c).

(5) In paragraph (9)(b), after “pensionable service” where it first occurs, insert “in the 2015 Scheme”.

(6) After paragraph (9), insert—

“(9A) For the purposes of this regulation, in the case of a non-contributing member, “pensionable pay” means the member’s pensionable earnings for the purposes of the 2015 Scheme.”.

### **Amendment of regulation 2.D.6**

**32.—**(1) Regulation 2.D.6(1) (increase in pensionable pay following exercise of option under regulation 2.D.5) is amended as follows.

(2) In sub-paragraph (b)(i), after “is increased”, insert “(disregarding any increase in pensionable pay resulting from the member leaving a salary sacrifice arrangement)”.

(3) In sub-paragraph (b)(ii), after “is reduced”, insert “(disregarding any reduction in pensionable pay resulting from the member entering into a salary sacrifice arrangement)”.

### **Amendment of regulation 2.D.7**

**33.—**(1) Regulation 2.D.7 (application of regulations 2.D.5 and 2.D.6 where concurrent part-time employments held) is amended as follows.

(2) In paragraph (1), for “or a non-contributing member”, substitute “of the 2015 Scheme”.

(3) In paragraph (3), after “is reduced”, insert “(disregarding any reduction in pensionable pay resulting from the member entering into a salary sacrifice arrangement)”.

(4) In paragraph (5), after “is increased”, insert “(disregarding any increase in pensionable pay resulting from the member leaving a salary sacrifice arrangement)”.

### **Amendment of regulation 2.D.13**

**34.** In regulation 2.D.13 (exceptions to requirement that NHS employment must have ceased)(a), in paragraph (2A), after “if the member” insert “is not a non-contributing member and”.

---

(a) Regulation 2.D.13 was relevantly amended by S.S.I. 2015/95.

### **Amendment of regulation 3.A.1**

**35.** In regulation 3.A.1 (interpretation of part 3: general), at the appropriate places, insert—

““approved salary sacrifice arrangement” means an arrangement specified by the scheme manager under which the member gives up the right to receive part of their salary in return for their employer agreeing to provide the member with benefits in kind as specified by the scheme manager;

“lump sum and death benefit allowance” in relation to a person, has the meaning given in section 637R of the Income Tax (Earnings and Pensions) Act 2003;

“salary sacrifice arrangement” means an arrangement under which the member gives up the right to receive an amount of pensionable pay in return for the provision of a benefit in kind;”.

### **Amendment of regulation 3.A.7**

**36.** In regulation 3.A.7(1) (meaning of “pensionable earnings”), after “salary, wages, fees” insert “, any amount equal to any part of salary given up under an approved salary sacrifice arrangement,”.

### **Amendment of regulation 3.A.11**

**37.** In regulation 3.A.11(1) (meaning of pensionable earnings in relation to other practitioners), in sub-paragraph (a) after “salary, wages, fees” insert “, any amount equal to any part of salary given up under an approved salary sacrifice arrangement,”.

### **Amendment of regulation 3.D.5**

**38.** In regulation 3.D.5 (partial retirement: members aged at least 55)—

- (a) in paragraph (1)(a)(i), for “or a non-contributing member”, substitute “of the 2015 Scheme”,
- (b) in paragraph (5)(a)(ii), for “lifetime allowance”, substitute “lump sum and death benefit allowance”,
- (c) omit paragraph (5)(b).

### **Amendment of regulation 3.D.6**

**39.** In regulation 3.D.6(4) (increase in level of engagement following exercise of option under regulation 3.D.5), for “or a non-contributing member of this Section of the scheme”, substitute “of the 2015 Scheme”.

## **PART 5**

### **Amendment of the National Health Service Pension Scheme (Scotland) Regulations 2015**

**40.** The National Health Service Pension Scheme (Scotland) Regulations 2015(a) are amended in accordance with this Part.

### **Amendment of regulation 19**

**41.** In regulation 19 (restrictions on membership)(b), omit paragraph (c).

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(a) S.S.I. 2015/94.

(b) Regulation 19 was relevantly amended by S.S.I. 2022/100.



### **Amendment of regulation 21**

**42.**—(1) Regulation 21 (absence from work)(a) is amended as follows.

(2) After paragraph (1)(d), omit “or”.

(3) After paragraph (1)(e), insert—

“or;

(f) carer’s leave.”.

### **Amendment of regulation 27**

**43.** In regulation 27 (pensionable earnings)(b), in column 3 of the table, after “salary, wages and fees”, insert “, any amount equal to any part of salary given up under an approved salary sacrifice arrangement.”.

### **Amendment of regulation 28**

**44.**—(1) Regulation 28 (pensionable earnings: break in service)(c) is amended as follows.

(2) After paragraph (2)(d), omit “or”.

(3) After paragraph (2)(e), insert—

“or;

(f) carer’s leave.”.

(4) In paragraph (6)(b), for “(e)”, substitute “(f)”.

(5) In paragraph (10)(b), for “(e)”, substitute “(f)”.

### **Amendment of regulation 30**

**45.** In regulation 30 (members’ contributions: employees)(d)—

(a) in paragraph (3)—

(i) after sub-paragraph (h), insert—

“(i) from 1 April 2023 is the percentage specified in column 2 of Table 9 below in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall,

(j) from 1 October 2023 is the percentage specified in column 2 of Table 10 below in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall,

(k) from 1 April 2024 is the percentage specified in column 2 of Table 11 below in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall,

(l) from 1 October 2024 is the percentage specified in column 2 of Table 12 below in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall.”, and

(ii) after table 8, insert—

#### **“Table 9**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>

(a) Regulation 21 was relevantly amended by S.I. 2020/354.

(b) Regulation 27 was relevantly amended by S.S.I. 2016/97.

(c) Regulation 28 was relevantly amended by S.I. 2020/354.

(d) Regulation 30 was relevantly amended by S.S.I. 2022/117.

Up to £23,819	5.2%
£23,820 - £25,981	5.8%
£25,982 - £32,914	7.3%
£32,915 - £66,017	9.5%
£66,018 - £92,423	12.7%
£92,424 - £123,147	13.7%
£123,148 to any higher amount	14.7%

**Table 10**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,330	5.7%
£13,331 - £23,819	6.1%
£23,820 - £28,186	6.7%
£28,187 - £35,364	8.2%
£35,365 - £35,521	9.8%
£35,522 - £37,086	10.0%
£37,087 - £45,079	10.5%
£45,080 - £48,784	10.8%
£48,785 - £68,222	11.3%
£68,223 to any higher amount	13.7%

**Table 11**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,330	5.7%
£13,331 - £25,367	6.1%
£25,368 - £30,018	6.7%
£30,019 - £37,663	8.2%
£37,664 - £37,830	9.8%
£37,831 - £39,497	10.0%
£39,498 - £48,009	10.5%
£48,010 - £51,954	10.8%
£51,955 - £72,656	11.3%
£72,657 to any higher amount	13.7%

**Table 12**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,330	5.7%
£13,331 - £25,367	6.4%
£25,368 - £30,018	7.0%
£30,019 - £37,663	8.7%
£37,664 - £39,497	9.8%
£39,498 - £48,009	10.5%
£48,010 - £51,954	11.2%
£51,955 - £72,656	11.6%
£72,657 to any higher amount	12.7%”

(b) after paragraph (3), insert—

“(3A) Where paragraph 2A or 3 of Schedule 9 applies, M’s contribution rate from 1 October 2023 is the percentage specified in column 2 of Table 1 below in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall.

**Table 1**

<i>Column 1</i> <i>Pensionable earnings band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £13,330	5.7%
£13,331 - £25,367	6.1%
£25,368 - £30,018	6.7%
£30,019 - £37,663	8.2%
£37,664 - £37,830	9.8%
£37,831 - £39,497	10.0%
£39,498 - £48,009	10.5%
£48,010 - £51,954	10.8%
£51,955 - £72,656	11.3%
£72,657 to any higher amount	13.7%

(3B) Where paragraph 2A or 3 of Schedule 9 applies, M’s contribution rate from 1 October 2024 is the percentage specified in column 2 of Table 2 below in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall.

**Table 2**

<i>Column 1</i> <i>Pensionable earnings band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £13,330	5.7%
£13,331 - £25,367	6.4%
£25,368 - £30,018	7.0%
£30,019 - £37,663	8.7%
£37,664 - £39,497	9.8%
£39,498 - £48,009	10.5%
£48,010 - £51,954	11.2%
£51,955 - £72,656	11.6%
£72,657 to any higher amount	12.7%

### **Amendment of regulation 31**

**46.** In regulation 31 (members’ contributions: practitioners and non-GP providers)(a)—

(a) in paragraph (3)—

(i) in sub-paragraph (h) for “from April 2022” substitute “for the scheme year 2022/23”,

(ii) after sub-paragraph (h), insert—

“(i) for the scheme year 2023/24 is the percentage specified in column 2 of Table 9A and 9B in paragraph (9) in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall,

(j) for the scheme year 2024/25 is the percentage specified in column 2 of Table 10A and 10B in paragraph (9) in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall.”, and

(b) in paragraph (9), after table 8, insert—

(a) Regulation 31 was relevantly amended by S.S.I. 2022/117.

**“Table 9A Scheme Year 2023/24 from 1 April 2023 to 30 September 2023**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £23,819	5.2%
£23,820 - £25,981	5.8%
£25,982 - £32,914	7.3%
£32,915 - £66,017	9.5%
£66,018 - £92,423	12.7%
£92,424 - £123,147	13.7%
£123,148 to any higher amount	14.7%

**Table 9B Scheme Year 2023/24 from 1 October 2023 to 31 March 2024**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,330	5.7%
£13,331 - £23,819	6.1%
£23,820 - £28,186	6.7%
£28,187 - £35,364	8.2%
£35,365 - £35,521	9.8%
£35,522 - £37,086	10.0%
£37,087 - £45,079	10.5%
£45,080 - £48,784	10.8%
£48,785 - £68,222	11.3%
£68,223 to any higher amount	13.7%

**Table 10A Scheme Year 2024/25 from 1 April 2024 to 30 September 2024**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,330	5.7%
£13,331 - £25,367	6.1%
£25,368 - £30,018	6.7%
£30,019 - £37,663	8.2%
£37,664 - £37,830	9.8%
£37,831 - £39,497	10.0%
£39,498 - £48,009	10.5%
£48,010 - £51,954	10.8%
£51,955 - £72,656	11.3%
£72,657 to any higher amount	13.7%

**Table 10B Scheme Year 2024/25 from 1 October 2024 to 31 March 2025**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,330	5.7%
£13,331 - £25,367	6.4%
£25,368 - £30,018	7.0%
£30,019 - £37,663	8.7%
£37,664 - £39,497	9.8%
£39,498 - £48,009	10.5%
£48,010 - £51,954	11.2%
£51,955 - £72,656	11.6%
£72,657 to any higher amount	12.7%”

### **Amendment of regulation 32**

**47.** In regulation 32 (contributions by employing authorities)(a), in paragraph (1), for “20.9%”, substitute “22.5%”.

### **Amendment of regulation 37**

**48.** In regulation 37 (members’ contributions: supplementary: medical practitioners, non-GP providers)—

- (a) in paragraph (3)—
  - (i) for “the Table” in the first place it occurs, substitute “the relevant table in regulation 31”,
  - (ii) for “the Table” in the second place it occurs, substitute “that table”,
- (b) in paragraph (4), for “Table” substitute “relevant table in regulation 31”.

### **Amendment of regulation 67**

**49.**—(1) Regulation 67(1) (effect of being absent or leaving and rejoining scheme during contributions payment period)(b) is amended as follows.

- (2) Omit “or” after sub-paragraph (e)”.
- (3) After sub-paragraph (e), insert—
  - “(ea) is on carer’s leave; or”.

### **Amendment of regulation 83**

**50.**—(1) Regulation 83 (election for partial retirement (members over normal minimum pension age)) is amended as follows.

- (2) In paragraph (2)(a), after “reduced”, insert “(disregarding any reduction in pensionable earnings resulting from the member entering into a salary sacrifice arrangement)”.
- (3) In paragraph (5)(a)(ii), for “lifetime allowance”, substitute “lump sum and death benefit allowance”.
- (4) omit paragraph (5)(b).

### **Amendment of regulation 85**

**51.** In regulation 85(c) (terms of employment improve after election)—

- (a) In paragraph (2)(a), after “increased”, insert “(disregarding any increase in pensionable earnings resulting from the member leaving a salary sacrifice arrangement)”.
- (b) in paragraph (3), after “regulation 84(2)” insert “(a) and (b)”.

### **Amendment of regulation 88**

**52.**—(1) Regulation 88 (application of regulations 83 to 87: concurrent employments) is amended as follows.

- (2) In paragraph (3), after “reduced”, insert “(disregarding any reduction in pensionable earnings resulting from the member entering into a salary sacrifice arrangement)”.
- (3) In paragraph (4), after “increased”, insert “(disregarding any increase in pensionable earnings resulting from the member leaving a salary sacrifice arrangement)”.

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(a) Regulation 32 was relevantly amended by S.S.I. 2019/46.  
(b) Regulation 67 was relevantly amended by S.S.I. 2020/354.  
(c) Regulation 85 was relevantly amended by S.S.I. 2022/117.

#### **Amendment of regulation 104**

**53.** In regulation 104 (previous earnings: general), in paragraph (7), in the definition of “re-valued pensionable earnings”, after “by order” insert “(in respect of the NHS Pension Scheme (Scotland) 2015)”.

#### **Amendment of schedule 4**

**54.** In Schedule 4 (opting out and re-joining)(a), in paragraph 1 (opting out of the scheme), omit sub-paragraphs (5) and (6).

#### **Amendment of schedule 7**

**55.—**(1) Schedule 7 (pension accounts) is amended as follows.

(2) In paragraph 1 (interpretation)—

(a) for the definition of “index adjustment” substitute—

““index adjustment” means—

(a) in relation to the opening balance of earned pension for a scheme year (other than the opening balance of club transfer earned pension), the percentage increase or decrease in prices specified in an order (in respect of the NHS Pension Scheme (Scotland) 2015) made by the Treasury under section 9(2) of the 2013 Act in relation to the previous scheme year, plus 1.5%; and

(b) in relation to the opening balance of club transfer earned pension for a scheme year, the adjustment that is—

(i) equal to the adjustment that would apply to the opening balance of that amount of earned pension under the sending scheme for the previous scheme year, and

(ii) applied to the opening balance of club transfer earned on the date that the order (in respect of the NHS Pension Scheme (Scotland) 2015) made by the Treasury under section 9(2) of the 2013 Act in relation to the previous scheme year, has effect.”,

(b) in the definition of “AP index adjustment, after “in an order”, insert “(in respect of the NHS Pension Scheme (Scotland) 2015)”.

(3) In paragraph 3 (meaning of “leaver index adjustment”)—

(a) in sub-paragraph (1), in Step 1, after “in an order”, insert “(in respect of the NHS Pension Scheme (Scotland) 2015)”,

(b) for sub-paragraph (2), substitute—

“(2) Subject to sub-paragraph (2A), the leaver index adjustment for an amount of club transfer accrued earned pension is—

(a) equal to the adjustment that would apply under the sending scheme to an amount of accrued earned pension equal to the amount of club transfer accrued earned pension specified in the active member’s account at the end of the relevant last day, and

(b) applied to the amount of club transfer earned pension at the end of the relevant last day on the date that the order (in respect of the NHS Pension Scheme (Scotland) 2015) made by the Treasury under section 9(2) of the 2013 Act in relation to the previous scheme year, has effect.”.

(4) In paragraph 4 (meaning of “leaver AP index adjustment”), in sub-paragraph (2)(b), after “in an order”, insert “(in respect of the NHS Pension Scheme (Scotland) 2015)”.

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(a) Schedule 4 was relevantly amended by S.S.I. 2017/28.

**Amendment of schedule 9**

**56.** In Schedule 9 (determination of pensionable earnings: setting contribution rates)—

- (a) in paragraph 1 (introduction)—
  - (i) in sub-paragraph (a), omit the word “and”,
  - (ii) in sub-paragraph (b)—
    - (aa) at the beginning insert “subject to sub-paragraph (c),”,
    - (bb) after “time” insert “with different employing authorities”,
  - (iii) in sub-paragraph (b)(ii), for the full stop at the end substitute “; and”,
  - (iv) after sub-paragraph (b)(ii) insert—
    - “(c) if a member holds two or more pensionable employments at the same time with the same employing authority—
      - (i) the determinations referred to in paragraphs 2 to 4 apply to the aggregate of pensionable earnings for all such employments with that employing authority, and
      - (ii) all such employments with that employing authority are treated together for the purpose of paying contributions.”,
- (b) in paragraph 2 (continuous employment spanning two scheme years)—
  - (i) in sub-paragraph (1)—
    - (aa) for “Sub-paragraph (2)” substitute “This paragraph”,
    - (bb) for “(M)” to the end substitute—
      - “(M)—
        - (a) who is in pensionable employment with the same employing authority on both—
          - (i) the last day of the previous scheme year, and
          - (ii) the first day of the current scheme year, and
        - (b) falls within any of the cases in sub-paragraph (2).”,
    - (ii) in sub-paragraph (2)(a), for the table of cases substitute—

<i>“Column 1</i>	<i>Column 2</i>
<b>CASE 1</b>	
M—  (a) was in pensionable employment with an employing authority throughout the previous scheme year; and  (b) paid contributions at the same percentage rate throughout that year.	The amount of M’s pensionable earnings received during the previous scheme year.
<b>CASE 2</b>	
M—  (a) was in pensionable employment with an employing authority	The amount of M’s pensionable earnings determined by the formula—  $\frac{RPE}{NDPE} \times 365$

(a) Sub-paragraph (2) was relevantly amended by S.S.I. 2016/97.

<p>throughout the previous scheme year: and</p> <p>(b) did not pay contributions at the same percentage rate throughout that year.</p>	<p>where—</p> <p>RPE is the pensionable earnings received in respect of M's employment for the period—</p> <p>(i) starting on the date M's contribution rate last changed in the previous scheme year; and</p> <p>(ii) ending of the last day of that year; and</p> <p>NDPE is the number of days of pensionable employment with the employing authority—</p> <p>(i) starting on the date M's contribution rate last changed in that year; and</p> <p>(ii) ending on the last day of that year.</p>
<b>CASE 3</b>	
<p>M—</p> <p>(a) started pensionable employment with an employing authority during the previous scheme year; and</p> <p>(b) paid contributions at the same percentage rate from the date the employment started to the last day of that year.</p>	<p>The amount of M's pensionable earnings determined by the formula—</p> $\frac{RPE}{NDPE} \times 365$ <p>where—</p> <p>RPE is the pensionable earnings received in respect of M's employment for the period—</p> <p>(i) starting on the date M started that employment in the previous scheme year; and</p> <p>(ii) ending on the last day of that year; and</p> <p>NDPE is the number of days of pensionable employment with the authority—</p> <p>(i) starting on the day M started that employment in that year; and</p> <p>(ii) ending on the last day of that year.</p>
<b>CASE 4</b>	
<p>M—</p> <p>(a) started pensionable employment with an employing authority during the previous scheme year; and</p>	<p>The amount of M's pensionable earnings determined by the formula—</p> $\frac{RPE}{NDPE} \times 365$ <p>where—</p> <p>RPE is the pensionable earnings received in respect of M's employment for the period—</p>



<p>(b) did not pay contributions at the same percentage rate from the date the employment started to the last day of that year.</p>	<p>(i) starting on the date M's contribution rate last changed in the previous scheme year; and</p> <p>(ii) ending on the last day of that year; and</p> <p>NDPE is the number of days of pensionable employment with the authority—</p> <p>(i) starting on the date M's contribution rate last changed in that year; and</p> <p>(ii) ending on the last day of that year.</p>
<b>CASE 5</b>	
<p>M—</p> <p>(a) was in pensionable employment on a part-time basis with an employing authority throughout the previous scheme year and during that year M's annual rate of pensionable earnings in respect of that employment changed; and</p> <p>(b) paid contributions in respect of that period at the same percentage rate throughout the year.</p>	<p>The amount of M's pensionable earnings determined by the formula—</p> $\frac{RPE}{NDPE} \times 365$ <p>where—</p> <p>RPE is the pensionable earnings received in respect of M's employment for the period—</p> <p>(i) starting on the date M's annual rate of pensionable earnings last changed in the previous scheme year; and</p> <p>(ii) ending on the last day of that year; and</p> <p>NDPE is the number of days of pensionable employment with the authority—</p> <p>(i) starting on the date M's annual rate of pensionable earnings last changed in that year; and</p> <p>(ii) ending on the last day of that year.”</p>

- (iii) omit sub-paragraphs (3) and (4),
- (c) after paragraph 2 (continuous employment spanning two scheme years), insert—

**“Members who do not fall within any of the cases in paragraph 2**

**2A.—**(1) This paragraph applies for the purpose of determining the relevant contribution rate for the current scheme year for a member—

- (a) who is in pensionable employment with the same employing authority on both—
- (i) the last day of the previous scheme year, and
  - (ii) the first day of the current scheme year, and
- (b) does not fall within any of the cases within column 1 of the table in paragraph 2.

(2) Where this paragraph applies—

- (a) the scheme manager must determine the amount of the member’s pensionable earnings, and
  - (b) the member must pay contributions during the current scheme year at the rate specified in column 2 of Table 9 in paragraph (3) of regulation 30 in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to the amount so determined.
- (3) For the purposes of sub-paragraph (2)(a), the scheme manager must take the advice of the scheme actuary and have regard to—
- (a) pensionable earnings attributable to pensionable service comparable to that of the member,
  - (b) prevailing pay scales,
  - (c) prevailing rates of pensionable allowances.
- (4) A member is regarded as being in pensionable employment throughout the previous scheme year regardless of any period in that year during which the member continued to be employed by the same employer, but did not make contributions to this scheme.
- (5) For the purposes of calculating the member’s pensionable earnings, additional pensionable earnings that the member is treated as having received during an absence from work (see regulation 28) are included.
- (6) The amount of pensionable earnings determined in accordance with this paragraph must be rounded down to the nearest whole pound.”.
- (d) in paragraph 3 (change to employment or rate of pensionable earnings or allowances)—
- (i) omit sub-paragraph (4),
  - (ii) for sub-paragraph (5) substitute—
- “(5) Where sub-paragraph (1) or (2) applies the scheme manager must determine the member’s pensionable earnings by applying the formula—

$$\frac{EPE \times 365}{NDPE}$$

Where, for the purposes of this sub-paragraph—

EPE is the pensionable earnings that the member’s employing authority estimates will be payable to the member from the date the employment mentioned in that sub-paragraph starts to the end of the current scheme year; and

NDPE is the number of days pensionable employment from the date the employment starts to the end of that year.”,

- (e) in sub-paragraph (7), for “(6)” to the end substitute “(6) is to be taken as such amount as the employing authority considers appropriate for the current scheme year”.

**Amendment of schedule 13**

57.—(1) Schedule 13 (definitions) is amended as follows.

- (2) For the entry in Column 2 corresponding to the expression “overtime”, substitute—
  - “any period of time worked in excess of—
  - (a) whole-time, according to the terms of the member’s employment contract; or
  - (b) the terms of the member’s employment contract, during the period of 12 months following an election for partial retirement made under regulation 83.”.
- (3) At the appropriate places insert—

- (a) “adoption leave” and for the corresponding entry in column 2 “has the meaning given in regulation 2(1) of the Paternity and Adoption Leave Regulations 2002(a)”,
- (b) “approved salary sacrifice arrangement” and for the corresponding entry in column 2 “means an arrangement specified by the scheme manager under which the member gives up the right to receive part of their salary in return for their employer agreeing to provide the member with benefits in kind as specified by the scheme manager.”
- (c) “assistant practitioner” and for the corresponding entry in column 2—  
 “a registered medical practitioner who is—
  - (a) a GP performer who is not a GP provider but who is—
    - (i) employed (whether under a contract of service or for services) by a GMS practice, a section 17C agreement provider, an HBPMS contractor, an OOH provider or a Health Board, and
    - (ii) in that employment engaged wholly or mainly in assisting that practitioner’s employer in the discharge of the employer’s duties as a GMS practice, a section 17C agreement provider, an HBPMS contractor, an OOH provider or a Health Board, or
  - (b) a registered medical practitioner who is participating in a Doctors’ Retainer Scheme.”.
- (d) “carer’s leave” and for the corresponding entry in column 2 “leave under section 80J of the Employment Rights Act 1996(b)”,
- (e) “lump sum and death benefit allowance” and for the corresponding entry in column 2 “in relation to a person, has the meaning given in section 637R of the Income Tax (Earnings and Pensions) Act 2003(c)”,
- (f) “maternity leave” and for the corresponding entry in column 2 “ordinary maternity leave or additional maternity leave as defined in regulation 2(1) of the Maternity and Parental Leave etc. Regulations 1999(d)”,
- (g) “parental leave” and for the corresponding entry in column 2 “has the meaning given in regulation 2(1) of the Maternity and Parental Leave etc. Regulations 1999”,
- (h) “paternity leave” and for the corresponding entry in column 2 “leave under regulation 4 or 8 of the Paternity and Adoption Leave Regulations 2002(e)”,
- (i) “salary sacrifice arrangement” and for the corresponding entry in column 2 “an arrangement under which the member gives up the right to receive an amount of pensionable earnings in return for the provision of a benefit in kind including, but not limited to, a benefit consisting of a motor car or other vehicle, meals, care or vouchers”.

## PART 6

### Amendment of the National Health Service Pension Scheme (Transitional and Consequential Provisions) (Scotland) Regulations 2015

#### General

**58.** The National Health Service Pension Scheme (Transitional and Consequential Provisions) (Scotland) Regulations 2015(f) are amended in accordance with this Part.

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(a) S.I. 2002/2788. Regulation 2(1) was relevantly amended by S.I. 2006/2014 and S.I. 2011/1740.  
 (b) 1996 c. 18. Section 80J was inserted by the Carer’s Leave Act 2023 (c. 18).  
 (c) 2003 c. 1. Section 637R was inserted by the Finance Act 2024 (c. 3).  
 (d) S.I. 1999/3312. Regulation 2(1) was relevantly amended by S.I. 2002/2789, S.I. 2006/2014, S.I. 2013/388 and S.I. 2013/591.  
 (e) S.I. 2002/2788. Regulations 4 and 8 were relevantly amended by S.I. 2005/2114.  
 (f) S.S.I. 2015/95.

## **Amendment of regulation 2**

**59.**—(1) Regulation 2 (interpretation) is amended as follows.

(2) In the appropriate places in alphabetical order, insert—

““lump sum and death benefit allowance” in relation to a person, has the meaning given in section 637R of the Income Tax (Earnings and Pensions) Act 2003;”,

““non-pensionable 1995 Section member” means a member of—

(a) the 1995 Section who, on 31 March 2022, was no longer required to pay contributions under regulation D1(26) or (27) (contributions by members: age and pensionable service limits) of the 2011 Regulations, and

(b) the new scheme in respect of service on or after 1 October 2023;”,

““non-pensionable 2008 Section member” means a member of—

(a) the 2008 Section who, on 31 March 2022, was a non-contributing member within the meaning of regulation 2.A.1 (interpretation of Part 2: officers) or 3.A.1 (interpretation of Part 3: general) of the 2013 Regulations, and

(b) the new scheme in respect of service on or after 1 October 2023;”,

““non-pensionable old scheme member” means—

(a) a non-pensionable 1995 Section member; or

(b) a non-pensionable 2008 Section member;”.

(3) In the definition of “officer transition member”, after “a person” insert “other than a non-pensionable old scheme member”.

(4) In the definition of “practitioner transition member”, after “a person” insert “other than a non-pensionable old scheme member”.

## **Amendment of regulation 10A**

**60.** In regulation 10A (effect of recommencing service after break)(a), in paragraph (1)(a), after “a person” insert “other than a non-pensionable old scheme member”.

## **Amendment of regulation 14**

**61.**—(1) Regulation 14 (determination of pensionable pay, final pensionable pay and reckonable pay) is amended as follows.

(2) In paragraph (1), after the words “a 1995 offer transition member” insert the words “or a non-pensionable 1995 Section member”.

(3) In paragraph (2), after the words “a 2008 officer transition member” insert the words “or a non-pensionable 2008 Section member”.

## **Amendment of regulation 15**

**62.** In regulation 15 (no refund of contributions in cases of inordinate pay), for “1995 officer transition member’s final year’s pensionable pay” substitute “member’s final years’ pensionable pay in respect of a 1995 officer transition member or a non-pensionable 1995 Section member”.

## **Amendment of regulation 16**

**63.** In regulation 16 (cessation of final salary link on payment of benefits), after “member’s benefits” insert “or a non-pensionable old scheme member’s benefits”.

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(a) Regulation 10A was inserted by S.S.I. 2017/28.

## **New regulation 17A**

**64.** After regulation 17 (final salary link: mental health officers), insert—

### **“Final salary link: non-pensionable old scheme members**

**17A.**—(1) This regulation applies if benefits under the old scheme payable to or in respect of a non-pensionable old scheme member are to be calculated by reference to that member’s final salary as determined in accordance with Schedule 7 to the 2013 Act (“the member’s final salary link”).

(2) Where this regulation applies, the benefits under the old scheme payable to or in respect of the member may be calculated without reference to the member’s final salary link if it would be more beneficial to the member or other beneficiary to do so.”.

## **Amendment of regulation 31**

**65.**—(1) Regulation 31 (partial retirement) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Where a transition member or non-pensionable old scheme member elects to claim a specified percentage of that member’s pension pursuant to regulation 83 of the 2015 Regulations, that election is to be treated as also being an option for the purposes of partial retirement pension pursuant to whichever of the following regulations applies to the member—

- (a) regulation E11A of the 2011 Regulations (with or without the modifications made in paragraph 16A of Schedule 2), or
- (b) regulations 2.D.5 or 3.D.5 of the 2013 Regulations.”.

(3) For paragraph (2) substitute—

“(2) A transition member or non-pensionable old scheme member does not become entitled to a specified percentage of a pension under regulation 83 of the 2015 Regulations until the member has become entitled to and claimed all the benefits in—

- (a) the 1995 Section, or
- (b) the 2008 Section.”.

(4) For paragraph (3)(a) substitute—

“(3) For the purposes of regulation E11A(7) of, and paragraph 16A to Schedule 2 to, the 2011 Regulations, regulation 2.D.5(6) and 3.D.5(5) of the 2013 Regulations and regulation 83(5) of the 2015 Regulations (as the case may be)—

- (a) the pension, other than the pension claimed in respect of additional benefits (in the case of regulation E11A of the 2011 Regulations) or additional pension (in the case of regulation 2.D.5 and 3.D.5 of the 2013 Regulations), to which the member becomes entitled as a result of the option or election (before converting pension to lump sum) is not to be less than the amount of pension payable by reference to 20% of the aggregate of the member’s pensionable service under the 2011 Regulations, or the 2013 Regulations (as the case may be), and the 2015 Regulations at the end of the option day, and
- (b) taken together with any increase to which the member has become entitled as a result of the option or election, the aggregate of the member’s pension under the 2011 Regulations, or the 2013 Regulations (as the case may be), and the 2015 Regulations is not less than 0.05% of the member’s lump sum and death benefit allowance on the option day.”.

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(a) Paragraph (3) was amended by S.S.I. 2017/28.

### **Amendment of regulation 35**

**66.**—(1) Regulation 35 (variations to lump sums for 1995 and 2008 pensioners joining new scheme)(a) is amended as follows.

(2) At the end of the regulation heading, insert “(other than pensioners who have taken a partial retirement pension)”.

(3) In paragraph (1), after “paragraph 2 of Schedule 1” insert “other than persons who have taken a partial retirement pension”.

(4) For paragraph (3) substitute—

“(3) In this regulation “partial retirement pension” means a pension under—

- (a) regulation E11A of the 2011 Regulations,
- (b) regulation 2.D.5 or 3.D.5 of the 2013 Regulations, or
- (c) regulation 83 of the 2015 Regulations.”.

### **New regulation 35A**

**67.** After regulation 35 (variations to lump sums for 1995 and 2008 pensioners joining new scheme) insert—

#### **“Variations to lump sums for 1995 and 2008 pensioners joining new scheme (pensioners who have taken a partial retirement pension)**

**35A.**—(1) This regulation applies to persons falling in Groups 1 to 4, 6, 7, 9 and 10 in the table at paragraph 1 of Schedule 1 and Groups 1 to 4, 6 and 7 in the table at paragraph 2 of Schedule 1 who have taken a partial retirement pension.

(2) Where this regulation applies the lump sum payable on the death of an active member in place of any lump sum otherwise payable in respect of that member under regulation 111(a) of the 2015 Regulations and regulation 2.E.19(2)(a) or regulation 3.D.18(2)(a) of the 2013 Regulations are the lump sums found under—

- (a) paragraph (3), if the member is not a non-pensionable old scheme member and has taken an old scheme partial retirement pension but has not taken a new scheme partial retirement pension,
- (b) paragraph (4), if the member is a non-pensionable old scheme member and has taken an old scheme partial retirement pension but has not taken a new scheme partial retirement pension,
- (c) paragraph (5), if the member has taken a new scheme partial retirement pension.

(3) Where paragraph (2)(a) applies, the lump sum is an amount equal to the appropriate fraction of an amount that is the greater of—

- (a) twice the member’s relevant earnings calculated in accordance with paragraph 7(2)(a)(i) of Schedule 12 to the 2015 Regulations (death of a partial retirement pensioner), and
- (b) twice the member’s re-valued pensionable earnings for the scheme year falling in the earnings reference period which has the largest re-valued pensionable earnings calculated in accordance with paragraph 7(2)(a)(ii) of Schedule 12 to the 2015 Regulations (lump sum on death).

(4) Where paragraph (2)(b) applies, the lump sum is an amount equal to the appropriate fraction of either—

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(a) Regulation 35 was relevantly amended by S.S.I. 2022/100.

- (a) the lump sum on death found in column 2 of Part 1 of Table 2 (non-pensionable old scheme member entitlements) in regulation 38(1A) (death in service) if the member is a non-pensionable 1995 Section member, or
  - (b) the lump sum on death found in column 2 of Part 2 of that Table if the member is a non-pensionable 2008 Section member
- (5) Where paragraph (2)(c) applies, the lump sum is an amount determined by the scheme manager after taking advice from the scheme actuary.
- (6) In this regulation—
- “appropriate fraction” means—

$$\frac{DPS}{TDPS}$$

where—

DPS is, where the member continues in pensionable service as an active member of the 2015 Scheme on the option day (or the last such option day if the option has been exercised more than once), the total number of days of pensionable service in that Scheme and this Section of the scheme which do not relate to the specified percentage of pension at the option day, and

TDPS is the aggregate of DPS and the total number of days of pensionable service (at the option day or the last such option day if the option has been exercised more than once) which relate to the specified percentage of pension payable,

“old scheme partial retirement pension” means a pension under—

- (a) regulation E11A of the 2011 Regulations, or
- (b) regulation 2.D.5 or 3.D.5 of the 2013 Regulations (whichever applies),

“option day” has the meaning given in—

- (a) regulation E11A(11) of the 2011 Regulations in the case of a member who has taken a partial retirement pension under that regulation,
- (b) regulation 2.D.5(8) of the 2013 Regulations in the case of a member who has taken a partial retirement pension under that regulation, and
- (c) regulation 3.D.5(7)(b)(ii) of the 2013 Regulations in the case of a member who has taken a partial retirement pension under that regulation, and

“specified percentage of pension” has the meaning given in—

- (a) paragraph (4) of regulation E11A of the 2011 Regulations in the case of a member who has taken a partial retirement pension under that regulation,
- (b) paragraph (4) of regulation 2.D.5 of the 2013 Regulations in the case of a member who has taken a partial retirement pension under that regulation, and
- (c) paragraph (3) of regulation 3.D.5 of the 2013 Regulations in the case of a member who has taken a partial retirement pension under that regulation.”.

### **Omission of regulation 37**

**68.** Omit regulation 37 (abatement: special classes).

### **Amendment of regulation 38**

**69.**—(1) Regulation 38 (death in service)(a) is amended as follows.

(2) In paragraph (1)—

- (a) for “the table” substitute “Table 1”,

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(a) Regulation 38 was relevantly amended by S.S.I. 2017/28.

(b) for the heading “Table” substitute “Table 1 Transition member entitlements”.

(3) After paragraph (1), insert—

“(1A) As regards a non-pensionable old scheme member, or a person who derives a benefit from the old scheme or new scheme in respect of a non-pensionable old scheme member, the entitlement listed in column 1 of Table 2 is disapplied and the corresponding entitlement in column 2 applies instead.

**Table 2 Non-pensionable old scheme member entitlements**

<i>Column 1</i> <i>Original entitlement</i>	<i>Column 2</i> <i>Revised entitlement</i>
<b>PART 1</b> Entitlements from the 1995 Section	
a lump sum on death under regulation F1.	a lump sum on death under regulation 111(a) of the 2015 Regulations which is equal to the greater of— <ul style="list-style-type: none"> <li>(a) the lump sum calculated in accordance with paragraph 2 (death of active member) of Schedule 12 (lump sum on death) to the 2015 Regulations; and</li> <li>(b) the lump sum otherwise due under the original entitlement to a lump sum on death under regulation F1 of the 2011 Regulations.</li> </ul>
an initial adult survivor pension under regulation G2(5) at the rate of the member’s pensionable pay for the first six months after the member’s death.	a pension payable from the new scheme during the initial period at the rate which is equal to the greater of— <ul style="list-style-type: none"> <li>(a) the rate of the member’s pensionable earnings under regulation 114(4) of the 2015 Regulations; and</li> <li>(b) the rate of the member’s pensionable pay that would have applied under the original entitlement in respect of the member under regulation G2(5) of the 2011 Regulations</li> </ul> <p>where references in regulation G2(6) and H3(7) and (8) of the 2011 Regulations to regulation G2(5) are to be taken to be a reference to a pension payable under regulation 114(4) of the 2015 Regulations.</p>
an ongoing pension under regulation G2(5) based on one half of the member’s notional ill-health pension had the member become entitled to an upper tier pension under regulation E3 on the member’s last day of pensionable employment.	<ul style="list-style-type: none"> <li>(a) payable from the 1995 Section in respect of service in that Section, an ongoing adult survivor pension equal to the pension that would have been payable to the adult survivor under Part G of the 2011 Regulations if the member had retired with a pension under regulation E1 of the 2011 Regulations on the member’s last day of pensionable employment; and</li> <li>(b) payable from the new scheme in respect of service in that scheme, an</li> </ul>



	ongoing survivor pension based on an Upper Tier IHP under regulation 114(5) of the 2015 Regulations
a dependant child's pension under regulation H3 equal to the rate of the member's final year's pensionable pay, payable for the first— (a) three months under paragraph (8); (b) six months under paragraph (9); (c) six months under paragraph (10).	an initial pension payable from the new scheme equal to the greater of— (a) an initial pension of the same amount and for the same duration under paragraph (6) or (7) of regulation 122 of the 2015 Regulations; and (b) an initial pension of the same amount and for the same duration as the original entitlement in respect of the member under regulation H3 of the 2011 Regulations.
an ongoing pension under regulation H3(3) based on a proportion of the member's notional ill-health pension had the member become entitled to an Upper Tier pension under regulation E3 on the member's last day of pensionable employment or, if greater, the amount that pension would have been had it been based on 10 years pensionable service.	(a) payable from the 1995 Section in respect of service in that Section, an ongoing pension equal to the relevant proportion of the pension that would have been payable to the member if the member had retired with a pension under regulation E1 of the 2011 Regulations on the member's last day of pensionable employment; and (b) payable from the new scheme in respect of service in that scheme, an ongoing pension based on the appropriate fraction of the basic death pension specified under regulation 122(3) and (4) of the 2015 Regulations.
<b>PART 2</b> Entitlements from the 2008 Section	
a lump sum on death under regulation 2.E.17(1) or 3.E.17(1).	a lump sum on death under regulation 112(a) of the 2015 Regulations which is equal to the greater of— (a) the lump sum calculated in accordance with paragraph 2 (death of active member) of Schedule 2 (lump sum on death) to the 2015 Regulations; and (b) the lump sum otherwise due under the original entitlement to a lump sum on death under regulation 2.E.17(1) or 3.E.17(1) of the 2013 Regulations.
a surviving adult dependent's pension during the initial period of six months—	a pension payable from the new scheme during the initial period at the rate which is equal to the greater of—

<p>(a) under regulation 2.E.3(1)(b) equal to the deceased's reckonable pay; or</p> <p>(b) under regulation 3.E.3(1)(b) equal to the monthly average of the deceased's uprated earnings on the member's last day of pensionable service</p>	<p>(a) the rate of the member's pensionable earnings under regulation 115(4) of the 2015 Regulations; and (b) the rate of the deceased's reckonable pay under regulation 2.E.3(1) of the 2013 Regulations; and</p> <p>(b) the monthly average of the deceased's uprated earnings on the member's last day of pensionable service under regulation 3.E.3(1)(b) of the 2013 Regulations,</p> <p>where references in regulation 2.E.3(2) and 3.E.3(2) of the 2013 Regulations to "after the initial period" are to be taken to be a reference to the period for which the initial pension payable under regulation 114(4) of the 2015 Regulations is payable.</p>
<p>If the member has not reached the age of 65: an ongoing pension after the initial period—</p> <p>(a) under regulation 2.E.3(2)(a) equal to 37.5% of the Upper Tier ill health pension under regulation 2.D.8 to which the member would have been entitled if, on the date of death, the member had become entitled to such a pension; or</p> <p>(b) under regulation 3.E.3(2)(a) equal to the appropriate proportion of the Upper Tier ill health pension under regulation 3.D.7 to which the member would have been entitled if, on the date of death, the member had become entitled to such a pension.</p> <p>If the member has reached the age of 65: an ongoing pension after the initial period—</p> <p>(a) under regulation 2.E.3(2)(b) equal to 37.5% of the pension under regulation 2.D.1 to which the member would have been entitled if, on the date of death, the member had become entitled to such a pension in respect of any period of pensionable service; or</p> <p>(b) under regulation 3.E.3(2)(b) equal to the appropriate proportion of the Upper Tier ill health pension under regulation 3.D.1 to which the member would have been entitled if, on the date of death, the member had become entitled to such a pension in respect of any period of pensionable service.</p>	<p>(a) payable from the 2008 Section in respect of service in that Section, an ongoing adult survivor pension after the initial period equal to—</p> <p>(i) 37.5% of the pension under regulation 2.D.1 to which the member would have been entitled if, on the date of death, the member had become entitled to such a pension in respect of any period of pensionable service that the member is entitled to count; or</p> <p>(ii) the appropriate proportion of the pension under regulation 3.D.1 to which the member would have been entitled if, on the date of death, the member had become entitled to such a pension in respect of any period of pensionable service that the member is entitled to count; and</p> <p>(b) payable from the new scheme in respect of service in that scheme, an ongoing survivor pension based on an Upper Tier IHP under regulation 114(5) of the 2015 Regulations</p>
<p>a dependant child's pension under—</p> <p>(a) regulation 2.E.10 equal to the rate of</p>	<p>an initial pension payable from the new scheme equal to the greater of—</p>

<p>the deceased member's reckonable pay, payable for the first—</p> <p>(i) three months under paragraph (6)(b);</p> <p>(ii) six months under paragraph (7); or</p> <p>(b) regulation 3.E.10 equal to the rate of the monthly average of the deceased's uprated earnings on the member's last day of pensionable pay, payable for the first—</p> <p>(i) three months under paragraph (5)(b);</p> <p>(ii) six months under paragraph (6)</p>	<p>(a) an initial pension of the same amount and for the same duration under paragraph (6) or (7) of regulation 123 of the 2015 Regulations; and</p> <p>(b) an initial pension of the same amount and for the same duration as the original entitlement in respect of the member under regulation 2.E.10 or 3.E.10 of the 2013 Regulations.</p>
<p>an ongoing pension under regulation 2.E.10(3) or 3.E.10(3) equal to the appropriate fraction of the basic death pension.</p>	<p>(a) payable from the 2008 Section in respect of service in that Section, an ongoing pension equal to the appropriate fraction of the basic death pension payable under—</p> <p>(i) regulation 2.E.10(3) of the 2013 Regulations; or</p> <p>(ii) regulation 3.E.10(3) of the 2013 Regulations,</p> <p>where that pension is based on the pensionable service that the deceased was entitled to count at the date of death; and</p> <p>(b) payable from the new scheme in respect of service in that scheme, an ongoing pension based on the appropriate fraction of the basic death pension specified under regulation 122(3) and (4) of the 2015 Regulations.”</p>

(4) In paragraph (2)—

- (a) for “the table”, in both places it occurs, substitute “Table 1 or Table 2”, and
- (b) after the first occurrence of “column 1” insert “of either table”.

## PART 7

### Modifications of member contribution provisions in the National Health Service Pension Scheme (Scotland) Regulations 2015

#### General

**70.** The National Health Service Pension Scheme (Scotland) Regulations 2015(a) are modified in accordance with this Part.

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(a) S.S.I. 2015/94.

## Expiry of modifications in this Part

71. The modifications in this Part apply until the end of 31 March 2025.

## Modification of regulation 31

72. Regulation 31 (members' contributions: practitioners and non-GP providers)(a) is to be read as if—

- (a) in paragraph (3)(h), for “from 1 April 2022” there were substituted “for each relevant period of the scheme year 2022/23 and for the scheme year 2023/24”,
- (b) after paragraph (9), there were inserted—
  - “(9A) For the purposes of this regulation, the “relevant period of the scheme year 2023/24” means the period, as applicable—
    - (a) beginning with 1 April 2023 and ending with 30 September 2023,
    - (b) beginning with 1 October 2023 and ending with 31 March 2024.”,
- (c) in paragraph (10), at the end, there were inserted “and references to the relevant period of the scheme year 2023/24 in regulations 37 and 38 must be construed in accordance with paragraph (9A)”.

## Modification of regulation 37

73. Regulation 37 (members' contributions: supplementary: medical practitioners, non-GP providers) is to be read as if—

- (a) in paragraph (2)—
  - (i) in the words before sub-paragraph (a), for “a scheme year” there were substituted “each relevant period of the scheme year 2023/24”,
  - (ii) in sub-paragraph (b), after “M’s pensionable earnings for” there were inserted “each relevant period of”,
- (b) after paragraph (2), there were inserted—
  - “(2A) Paragraph (3A) applies if, in respect of the scheme year 2023/24, M—
    - (a) has certified M’s pensionable earnings in accordance with Part 1 of Schedule 10 and forwarded a record of the earnings to the contracting Health Board, or
    - (b) was not required to certify M’s earnings in accordance with Part 1 of Schedule 10 but the contracting Health Board has the figure that represents M’s pensionable earnings for that year.”,
- (c) in paragraph (3)—
  - (i) in the words before sub-paragraph (a), for “the scheme year in question” there were substituted “each relevant period of the scheme year 2023/24”,
  - (ii) for sub-paragraph (a), there were substituted—
    - “(a) certified or final pensionable earnings from all group D sources for each relevant period of the scheme year 2023/24 uprated according to the formula—

$$\frac{PE \times 365}{NDRP}$$

where—

PE is the certified or final amount of M’s pensionable earnings from all group D sources for each relevant period of the scheme year 2023/24,

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(a) Regulation 31 was relevantly amended by S.S.I. 2016/97 and S.S.I. 2022/117.

NDRP is the number of days of M's group D service in each relevant period of the scheme year 2023/24, and",

(iii) in sub-paragraph (b)—

(aa) after "received" there were inserted "for each relevant period of the scheme year 2023/24",

(bb) at the end, there were inserted—

“, and the pensionable earnings to which the contribution rate is applied for each relevant period of the scheme year 2023/24 are M's certified or final pensionable earnings from all group D sources for each relevant period”,

(d) after paragraph (3), there were inserted—

“(3A) If paragraph (3) does not apply to M in respect of the scheme year 2023/24, M's contributions payable for each relevant period of the scheme year 2023/24 are those specified in column 2 of the relevant table in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to the aggregate of—

(a) the pensionable earnings from all group D sources for each relevant period of the scheme year 2023/24 determined by applying the formula—

$$\frac{PE \times NDRP}{NDPS}$$

where—

PE is the certified or final amount of M's pensionable earnings from all group D sources for the scheme year 2023/24,

NDPS is the number of days of M's group D service in the scheme year 2023/24,

NDRP is the number of days of M's group D service in each relevant period of the scheme year 2023/24,

and uprated according to the formula—

$$\frac{PE \times 365}{NDRP}$$

where—

PE is M's pensionable earnings from all group D sources for each relevant period of the scheme year 2023/24 determined in accordance with this paragraph,

NDRP is the number of days of M's group D service in each relevant period of the scheme year 2023/24, and

(b) any additional pensionable earnings M is treated as having received for each relevant period of the scheme year 2023/24 during an absence from work in accordance with regulation 28, and the pensionable earnings to which the contribution rate is applied for each relevant period of the scheme year 2023/24 are determined by applying the formula—

$$\frac{PE \times NDRP}{NDPS}$$

where—

PE is the certified or final amount of M's pensionable earnings from all group D sources for the scheme year 2023/24,

NDPS is the number of days of M's group D service in the scheme year 2023/24,

NDRP is the number of days of M's group D service in each relevant period of the scheme year 2023/24.”,

(e) in paragraph (4), in the words before sub paragraph (a), for “paragraph (3) does” there were substituted “paragraphs (3) or (3A) do”,

- (f) in paragraph (5)—
- (i) for “paragraph (2)(a) or (b) is”, there were substituted “paragraphs (2)(a) or (b) or (2A)(a) or (b) are”,
  - (ii) after “rate” there were inserted “or rates”,
  - (iii) for “paragraph (3)” there were substituted “paragraphs (3) or (3A)”.

## PART 8

### Amendment to the National Health Service Pension Scheme (Scotland) (Additional Voluntary Contributions) Regulations 2018

**74.** In the National Health Service Pension Scheme (Scotland) (Additional Voluntary Contributions) Regulations 2018<sup>(a)</sup>, in regulation 12 (retirement and dependant’s benefits), after paragraph (1)(e), insert—

“(f) a pension commencement excess lump sum referred to in section 166(1)(aa) of the 2004 Act<sup>(b)</sup>.”.

*IVAN McKEE*

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
1st October 2024

We consent

*JEFF SMITH  
ANNA TURLEY*

Two of the Lords Commissioners of His Majesty’s Treasury

1st October 2024

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(a) S.S.I. 2018/124.

(b) 2004 c. 12. Section 166(1)(aa) was inserted by the Finance Act 2024 (c. 3).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the National Health Service Superannuation Scheme (Scotland) Regulations 2011 (“the 2011 Regulations”), the National Health Service Superannuation Scheme (Scotland) (2008 Section) Regulations 2013 (“the 2013 Regulations”), the National Health Service Pension Scheme (Scotland) 2015 Regulations (“the 2015 Regulations”), the National Health Service Pension Scheme (Transitional and Consequential Provisions) (Scotland) Regulations 2015 (“the 2015 Transitional Regulations”) and the National Health Service Pension Scheme (Scotland) (Additional Voluntary Contributions) Regulations 2018 (“the 2018 Regulations”) and make temporary modifications of restrictions on return to work provisions in the 2011 Regulations, the 2013 Regulations and the 2015 Regulations and temporary modifications of member contribution provisions in the 2015 Regulations.

Part 2 makes temporary modifications to the 2011 Regulations, the 2013 Regulations and the 2015 Regulations to suspend the operation of various provisions applying to members who partially retire or return to NHS employment after their pension becomes payable. These provisions were originally suspended by section 46 of the Coronavirus Act 2020 (c. 7). These temporary modifications in regulation 3 apply until the end of 31 March 2025 and the modifications in regulations 4 and 5 apply until the end of 31 March 2023.

Part 3 amends the 2011 Regulations. Regulations 7, 8 and 9 amend regulations A2, C1 and C2 to insert definitions relating to salary sacrifice arrangements, to update definitions of “pensionable pay” and “pensionable service”, and to include provisions for partial retirement for members of the 1995 scheme, which is set out by the 2011 Regulations. Regulation 10 amends regulation D3 to make some changes in relation to final pay control provisions, with the percentage figure relevant to the calculation of the “allowable amount” increased to 7%. Regulation 11 inserts new regulations E11A, E11B and E11C. New regulation E11A sets out the qualifying requirements for partial retirement and the entitlements. New regulation E11B deals with abatement of partial retirement benefits where members who partially retire then increase their pensionable pay. New regulation E11C makes provision for how new regulations E11A and E11B apply in circumstances where a member is in employment in two or more part-time employments. Regulation 12 amends regulation E12 to exclude non-pensionable members becoming entitled to their pension without having to leave NHS employment. Regulations 13 and 14 amend regulations E13 and E14 to update provisions for lump sum on retirement. Regulation 15 makes a consequential amendment to regulation F2 and Regulation 16 inserts new regulation F2A to provide for lump sums for members who die after partial retirement pension becomes payable. Regulation 17 amends regulation G3 to provide that any actuarial reduction applied to a partial retirement pension is not applied to the corresponding widow’s pension that is payable. Regulation 18 amends regulation H4 to provide that any actuarial reduction is not applied to any child survivor pension payable. Regulation 19 amends regulation H5 to disapply the 10-year underpin from the calculation of child survivor pension payable where members have taken partial retirement. Regulation 20 amends regulation J1 to provide that members taking partial retirement are not entitled to allocate part of that pension to their partner or spouse on death. Regulation 21 amends regulation K2 to omit reference to regulations S1 and S3. Regulation 22 amends regulation Q1 to prevent added years being included automatically in the calculation of partial retirement and regulation 23 amends regulation Q15 to ensure that partial retirement pensions are in scope of the rules on reduction of added years. Regulations 24, 25 and 26 make further amendments to provisions relating to members returning to NHS employment. Regulation 27 amends schedule 1 to make provision for partial retirement election for 1995 scheme medical and dental practitioners.

Part 4 amends the 2013 Regulations. Regulations 29 and 35 insert references relating to salary sacrifice arrangements and lump sum and death benefit allowance. Regulations 31, 32, 33, 38 and 39 make provision regarding partial retirement in the 2008 scheme, which is set out by the 2013 Regulations, in two ways. Firstly, regulations 31(2)(a), (3), (5) and (6), 33(2), 38(a) and 39 ensure that members of the 2008 scheme who have reached maximum service are able to access partial retirement with respect to their 2008 scheme benefits. Secondly, regulations 31(2)(b), 32, 33(3)

and (4) ensure that the effect on pensionable earnings of entering into or leaving a salary sacrifice arrangement is disregarded for partial retirement purposes.

Part 5 amends the 2015 Regulations. Regulation 41 amends regulation 19 to make provision for non-pensionable old scheme members to join the 2015 scheme, which is set out by the 2015 Regulations. Regulations 42, 44 and 49 amend the 2015 Regulations to add carer's leave to the list of absences from work that can count towards pensionable service and pensionable earnings and to make provision regarding the payment of contributions where a member is making periodic contributions. Regulation 43 amends regulation 27 to give powers to the scheme manager determine whether salary sacrifice schemes are pensionable. Regulations 45, 46 and 48 amend regulations 30, 31 and 37 to introduce a new structure in respect of member contributions and amend contribution rates paid by members towards their pension and create new pensionable earning bands and contributions rates to be paid by members from 1 April and October 2023, and from 1 April and 1 October 2024. Regulations 50, 51 and 52 ensure that the effect on pensionable earnings of entering or leaving a salary sacrifice arrangement is disregarded for partial retirement purposes in the 2015 scheme. Regulations 53 and 55 ensure that the date on which CARE pensions accruing in the 2015 scheme are revalued each year is aligned with the date on which the Public Service Pensions Revaluation Order 2023 came, and subsequent similar orders will come, into effect. In respect of the 2015 Scheme, this date is changed from 1 April each year to 6 April each year with effect from the financial year commencing 6 April 2023. This will align the rate of CPI used in the in-service revaluation of CARE pensions and the pension benefit growth calculation for annual allowance purposes. Regulation 54 amends schedule 4 to omit subparagraphs (5) and (6) and removes the requirement for practitioners to opt out of all employments. Regulation 56 amends schedule 9 to allow for the setting of new contribution rates. Regulation 57 amends schedule 13 to introduce the definitions of "assistant practitioner" and "salary sacrifice arrangement".

Part 6 amends the 2015 Transitional Regulations. Regulation 59 amends regulation 2 to insert new definitions into the interpretation provisions for "lump sum and death benefit allowance", "non-pensionable 1995 Section member", "non-pensionable 2008 Section member" and "non-pensionable old scheme members", and to make provision regarding other definitions. Regulation 60 amends regulation 10A in respect of such a non-pensionable old scheme member recommencing service after a break. Regulation 61 amends regulation 14 to make provision on the determination of certain members' pensionable pay, final pensionable pay and reckonable pay. Regulation 62 amends regulation 15 to provide for the refund of contributions in cases of inordinate pay. Regulation 63 amends regulation 16 to provide that the final salary link may not be applied to non-pensionable old scheme members whose benefits have been put into payment. Regulation 64 introduces new regulation 17A which provides that the final salary link may not be applied to non-pensionable old scheme members joining the 2015 scheme, if to not apply it would be more beneficial to the member. Regulation 65 amends regulation 31 requiring members who take partial retirement to claim their benefits from the old scheme before claiming any benefits in the new scheme. Regulations 66 and 67 make provision regarding the variation of lump sums for members who have taken partial retirement. Regulation 69 amends regulation 38 to make provision for death benefits for non-pensionable old scheme members, inserting a new Table 2 setting out the benefits payable to non-pensionable old scheme members who join the 2015 scheme, ensuring their entitlements under the new scheme are not worse than under the old scheme.

Part 7 makes temporary modifications to the 2015 Regulations to ensure that the member contributions reconciliation provisions for medical practitioners, non-GP providers and dental practitioners for scheme year 2023/24 reflect the mid-scheme year contribution rate change which came into force on 1 October 2023. These temporary modifications apply until the end of 31 March 2025.

Part 8 amends the 2018 Regulations to reflect changes made by the Finance Act 2024 to include a pension commencement excess lump sum as an optional payment.



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